

REMARKS

Favorable reconsideration of this application in light of the following discussion, is respectfully requested.

Claims 1-20 are presently active in this case.

The outstanding Office Action provisionally rejected Claims 1-20 under nonstatutory obviousness-type double patenting.

In response to the double patenting rejection of Claims 1, 2, 7, 8, and 13-16 over Claims 1 and 2 of U.S. Patent Application No. 10/288,025 and the double patenting rejection of Claims 3-6, 9-12, and 17-20 over Claims 1 and 2 of U.S. Patent Application No. 10/288,025 in view of Honcik, Applicants respectfully traverse the rejections. However, in the spirit of moving prosecution forward for the present application, a Terminal Disclaimer is filed herewith thereby overcoming the rejection. Applicants note that the filing of a Terminal Disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.¹

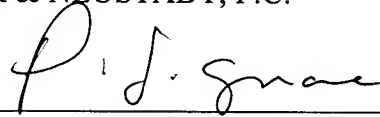
Consequently, in view of the present amendment, and in light of the above discussion, the pending claims as presented herewith are believed to be in condition for formal allowance, and an early and favorable action to that effect is respectfully requested.

¹ *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991), indicating that the “filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.”

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Philippe J.C. Signore, Ph.D.
Attorney of Record
Registration No. 43,922

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Derek P. Benke
Registration No. 56,944